

**UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-293-JRG
vs.)	
)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO, LTD;)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG SEMICONDUCTOR)	
INC.,)	
)	
Defendants.)	

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-294-JRG
vs.)	
)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.;)	
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**DECLARATION OF STEPHEN M. PAYNE IN SUPPORT OF
PLAINTIFF NETLIST, INC.'S SUR-REPLY ON SAMSUNG'S *DAUBERT*
MOTION TO STRIKE EXPERT TESTIMONY OF DAVID KENNEDY
(DKT. 346)**

I, Stephen M. Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Plaintiff Netlist, Inc. (“Netlist”) in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Netlist, Inc.’s Sur-Reply on Samsung’s *Daubert* Motion to strike expert testimony of David Kennedy (Dkt. 346). I have personal knowledge of the facts stated herein, and could and would testify completely thereto if called as a witness in this matter.

2. Attached as **Exhibit 10** is a true and correct excerpted copy of the Rebuttal Expert Report of Lauren Kindler, dated December 21, 2023.

3. Attached as **Exhibit 11** is a true and correct excerpted copy of the deposition transcript of Joseph Calandra, dated November 8, 2023, taken in Civil Action 22-CV-293.

4. Attached as **Exhibit 12** is a true and correct excerpted copy of the deposition transcript of Joseph McAlexander, dated February 9, 2023, taken in Civil Action 21-CV-463.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 15, 2024.

By /s/ Stephen M. Payne
Stephen M. Payne